

# Say NO to Tourism that Exploits the Child

## Trends and Issues on the Protection of Children in the context of Tourism in India

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EQUATIONS

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*Tourism policies focus on the growth and promotion of tourism and hardly acknowledge the negative fallouts of tourism development. In developing countries, tourism development without responsibility and protective measures has led to sexual exploitation of children in the form of child trafficking, child prostitution, pornography, child sex tourism and an increase in child labour. Through examples of the cases of paedophiles, statistics and research studies, the paper highlights the severity of the problem and tracks the responses on this issue in the tourism policy and implementation space. Our call to the Government of India, the Tourism Industry and World Tourism Organization (UNWTO) is to acknowledge and assume accountability to mitigate this problem.*

The focus of this paper is to highlight the trends, concerns and responses on the issues of child abuse, trafficking and labour in the context of tourism policy and development in India

Tourism is linked to people, environment and natural resources and directly impacts them. Tourism policies have tended to focus on the unbridled growth and promotion of tourism and hardly ever acknowledge the negative fallouts of tourism development. Tourism development is mostly unregulated and not monitored for its negative impacts. The mitigation of negative impacts therefore is also not on the agenda. In developing countries, tourism development without responsibility, accountability and protective measures has led to sexual exploitation of children in the form of child abuse, child trafficking, child prostitution, pornography and child sex tourism, and increase in child labour. All these in turn increase vulnerability of children to drugs, crimes, HIV/AIDS, and alienation from communities and families.

#### **Part A: Trends and Issues**

##### Child Sexual Abuse, Trafficking and Tourism

According to International Labour Organization (ILO) estimates, 15 percent of India's estimated 2.3 million commercial sex workers are children<sup>1</sup>. They are sexually exploited in brothels, massage parlors, nightclubs, beauty salons, hotels, escort services, private houses as well as at railway stations, bus stations, streets, public parks and more recently in circuses<sup>2</sup>. While child sexual abuse is widespread, the unwillingness of adults to deal with the problem results in it remaining hidden and unreported, allowing offenders to commit the act again and again over long periods of time, with little risk of getting caught. Further anonymity and unaccountability of the tourist make the link between tourism and child sex abuse particularly pernicious. The likelihood that abusers are booked or brought to justice remains low. Legislation also has many loopholes and lacunae that allow traffickers and middlemen go scot-free.

##### The Phenomenon Comes to Light

In India, the links between tourism and child exploitation came to light through the case of Freddy Peats, a 76 year old man of unknown origin who was arrested on 3rd April 1991 for sex crimes against young boys (as young as 3 years old). Until then, there was little or no awareness of the organised sexual exploitation of children, particularly trafficking, involving young boys in India, even though the involvement of female minors in prostitution was well known.. In March 1996, Freddy Peats was convicted of sex crimes against young boys in Goa. This was the first conviction for running an organised racket in paedophilia in India. But the incident was dismissed as an aberration.

Soon after, the case of Brinkman Helmut, a 57 years German paedophile was brought into the notice of Calangute Police Station, Goa in 1999. He was found guilty by the assistant sessions judge Panaji under Section 373<sup>3</sup> and 377<sup>4</sup> of Indian Penal Code (IPC) 1860, hiring of a minor for illicit or immoral purpose and for committing unnatural sexual offences. He was awarded six years rigorous imprisonment. However, on 29th September 2000 he was acquitted of the charges by the additional sessions judge Mapusa. In spite of strong evidence against him, the case got dismissed because Helmut's whereabouts were unknown. Not even two months after the case of a "wanted" paedophile fleeing the country coming to light, yet another paedophile fled the country, jumping bail in Goa<sup>5</sup>. Dominique Sabire, French national arrested by the Delhi Central Bureau of Investigation (CBI) in the child abuse racket run in Goa by Freddy Peats in the early 90's, also seemed have disappeared from India possibly due to the loose extradition laws.

#### A Twist in the Tale:

The risk to civil society organisation that work to combat and fight child abuse is increasing. In November 2004, Jan Ugahi an organization working on child rights issues in Goa, filed a case against Giorgio Lazini a 59 year old Italian in for allegedly having wrongfully confined a minor girl in his house. He later faced charges of sexually abusing and raping her. The Goa Children's Court however, gave Lazinni the benefit of the doubt and acquitted him. In 2007 Lazinni's lawyer in Goa has given a new twist to the state's intense debate over paedophilia by filing a Rs. 60 million lawsuit against Jan Ugahi stating 'loss of reputation, loss of business, compensation for wrongful detention, and loss of time and money in defending false cases'<sup>1</sup>.

In the case against Werner Wulf Ingo, a 54 year old Australian paedophile, found guilty by the assistant sessions judge Panaji under Section 373 and 377 of the IPC, He fled from India to Australia. In 2005 he was extradited from Australia to India by the Australian Federal Government to face charges over his role in Freddy Peats' paedophile network. He was placed in police custody in Delhi on 4th August 2006. He had made three trips to Goa, in 1987, 1988 and 1989. Bernadette McMenamin<sup>6</sup>, CEO Child Wise, Australia commented "the extradition of an Australian to face child sex charges in a developing country was unprecedented. "I cannot think of any other case when an Australian has been extradited to face charges in a Third World Country", Ms. Mcmenamin observed "there has always been a propensity for these people to believe they won't be charged in these countries, and if they are, then won't be sent back to face prosecution". The case against Wulf Werner Ingo is still going on in the Court of Goa before the additional Sessions Judge.

#### Acknowledging child abuse and exploitation in tourism

Tourism related child sexual abuse is not a phenomenon limited to Goa and not isolated to foreign tourists alone. A series of studies published by important official agencies and organisations working on protection of children have highlighted the links between tourism and the increase in child sexual abuse. The magnitude of the problem is not known since many of them are unreported or misreported due to the stigma and shame attached to this. Studies by the National Commission for Women<sup>7</sup>, the National Human Rights Commission<sup>8</sup> and by ECPAT<sup>9</sup> all provide conclusive evidence of the growing phenomena. Child sex Tourism is widespread in pilgrim, coastal tourism and most major tourist destinations such like Kerala, Delhi, Agra-U P, Jaipur-Rajasthan, Orissa, Andhra Pradesh, and Pondicherry. The National Human Rights Commission and National Commission for Women also identified Maharashtra, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, West Bengal, Orissa and Rajasthan as areas of high human trafficking.

The ECPAT study on "A Situational Analysis of Child Sex Tourism in India" conducted by EQUATIONS in 2003 provided evidence of child sex tourism Kovalam in Kerala. There are reports of tourists who are moving from Goa to areas of North Karnataka such as Gokarna and Karwar, which are presently being developed for tourism. Tourists have settled in the popular Om and Kudle beaches of these regions, which have become hideouts where sexual exploitation of children is also reported to take place.<sup>10</sup> Further the study "Trafficking in Women and Children in India", by the National Human Rights Commission published in January 2006 also reiterates that the beaches of Goa and Kovalam are increasingly becoming destinations for those seeking child prostitutes. In Orissa, Eastern India, organised child sex crime is taking place with the connivance of tour operator's hotels and the local people in a village called Pentakota which is on the outskirts of Puri in Orissa<sup>11</sup>.

Another study published by ECPAT "The Situation Analysis of prostitution of boys in South Asia" indicated that prostitution of boys is an upcoming problem in tourism destination like India<sup>12</sup>, Nepal, Sri Lanka, Pakistan and Bangladesh. It states "*Such exploitation occurs in locales such as streets, markets, bus terminals, hotels, restaurants and religious establishments. A large number of boys living on the streets are victims of sexual exploitation, and the average age of boys being forced into exploitation is approximately 12.5 years or younger. The majority of sexually exploited boys have experienced sexual abuse prior to their entrapment into prostitution*" EQUATIONS is also investigating reports of increasing prostitution of male children in pilgrim tourist destinations in India. New forms of tourism such a houseboats and home stays also increase the vulnerability of children to abuse as discovery of the abuse is n=more difficult. Before promoting these the Ministry should also devise measures and mechanisms for regulation and protection

### Child Labour in Tourism

The government of India announced a ban effective 10th October 2006 on the employment of children as workers in roadside eateries, teashops, restaurants, hotels etc. Many of these children, according to the Ministry of Labour and Employment of the Government of India, are subjected to physical violence, psychological trauma and even sexual abuse. With this step child labour in the hospitality sector is now categorised as hazardous work under the Child Labour Act.

In order to be seen implementing the ban, children are picked up from the streets, from small hotels, road side eateries and put them to rehabilitation and juvenile homes. Given the way these homes are run, they are not protected from abuse and in many situations work in abysmal conditions. This makes the child even more vulnerable to exploitation and the problems are pushed underground. It is important that the government has implementable mechanisms where the children can be reunited with communities and families rather than institutionalised mechanisms such as putting them in Juvenile homes and rehabilitation homes and continuing their abuse.

The recognition that a bulk of tourism services and economy functions in the informal sector which is most vulnerable and least protected by regulation and amenities is long overdue. Children work in this sector in large numbers and are particularly vulnerable to harsh working conditions, lack of safety and vulnerability to abuse. This must be recognized by the government and proper monitoring mechanism to give care and protection must be established.

Thus one and a half years down the line, post the ban, enormous challenges remain in translating the law into practice. Civil society organisations fears that a blanket ban without understanding the root causes of child labour would only push the problems into more dangerous ways underground have unfortunately proved true. Available data and estimates indicate that very few cases have been registered in the past year on account of this ban. Many children are still being seen hard at work in restaurants, hotels, tea stalls, etc. all over the country. While the ban evoked responses from a wide range of actors particularly NGO's and civil society organisations working on child rights, the tourism industry was conspicuously silent.

### The Landscape of Child Related Legislations

In India there are a host of related social legislation and criminal laws which have some beneficial provisions for the care, protection and rehabilitation of children. The laws relating to commerce, industry and trade have also some provisions for children, but they provide little protection or cater to the developmental needs of the child. The key bodies concerned with child related laws are the Ministry of Women and Child Development (MWCD), the Ministry of Labour (MoL) and the National commission for Children (NCC) and the National human rights Commission (NHRC). There continue to be major gaps in the provisions relating to child abuse particularly in cases of trafficking, sexual and forced labour, child pornography, child sex tourism and sexual assault of male children.

The Offences against Children's Bill<sup>13</sup> proposed by the MWCD which is still in the draft stage, is hoped to address current lacunae such as including the definition of "child in need", ensuring that the age of child is not reduced below 18. The bill it is hoped will also address commercial sexual exploitation (child sex tourism e.g.) and pornography as well consider child abuse and exploitation of children in a context which is commercial as this is a loophole used by offenders.

Offences relating to economic exploitation of a child and child labour must also be recognised and brought into the preview of the law. It is important to include sections on "Employment of children in Hospitality Sector", "Employment of children in unorganised sector" like selling trinkets, nuts tea etc in the beaches and road side who are also equally vulnerable to various forms of abuse. It is important to note that sex tourism is not the only component of tourism which abuses children. As tourism creates situations which encourages child labour, resulting in trafficking and sexual exploitation, it is important to highlight these inter linkages in the bill to protect children from such forms of exploitation.

### The Landmark Goa Children's Act 2003- Providing a Ray of Hope

Intensive lobbying and advocacy by the civil society groups in Goa working on child rights and child protection resulted in the passing of the Goa Children's Act in 2003. This was the first legislation that recognised exploitation of children in tourism as well and incorporates a section that recognizes and deals with the protection of children in the context of tourism.

Within two years of its enactment this Act was amended in 2005. The amendment diluted the timelines for implementation with out adequate rationale and omitted few important sections from the Act. One of the important

Section 8 (11) which stated that offences in case of tourism related child sexual abuse shall be non-bailable offence under CrPC1 was repealed. This makes the Act virtually toothless in relation to sexual exploitation of children by tourist in Goa. After seven years of the enactment of the Act only seven cases have come up before different Courts in Goa in relation to sexual exploitation of children by tourist of which only two offenders have been convicted.

While these amendments are retrograde, it must be noted that the government has also introduced few welcome amendments by adding important definitions on commercial sexual exploitation of children, child trafficking to the Act and by fixing specific penalty for non-implementation and conferring responsibility of protection of children to various public authorities. Subsequent to it being passed and a set of amendments in 2005, various stakeholders associated with the tourism and travel sector in Goa have engaged in discussion on how to implement the provisions and requirements of the legislation. The Goa Children's Act is unique because it does not merely recommend punitive measure against offenders, but suggests ways and means of dealing with the larger issues of protecting, promoting and preserving the best interest of children in Goa. It attempts to place responsibility on different sections of the society and its institutions to play a role in protecting all children and in preventing the abuse of any child. The hotel owners, the photo studios, cyber care operators, the police, the tourism department, the travel and tourism trade industry are each expected to be alert as well as perform particular roles to achieve this.

Unfortunately, the fight against child pornography and efforts to make it an offence under the Information Technology (IT) Act received a serious setback as a provision on the same suggested by an expert committee has mysteriously disappeared from the final draft of the IT (Amendment) Bill. The final draft of the Information Technology (Amendment) Bill does not incorporate the recommendations of the Expert Committee to include a provision on child pornography.<sup>14</sup> Instead, the latest draft of the Bill deleted the term "child pornography" and replaced it with terminology of 'sexually explicit act'. This that erodes the level of protection offered as the provision does not clearly define and prohibit child pornography. In light of the MWCD report on abuse and violence against children (2006) which has shown that sexual abuse of children has reached alarming proportions in the country, we believe these and other protection initiatives are urgently required.

In the run up to consolidating India's Eleventh Five Year Plan 2007-2012<sup>15</sup> the Planning Commission constituted several working groups to give their inputs. The MWCD in its working groups report mentioned that the tourism is known to directly contribute to the exploitation of the child in the form of child labour, child trafficking and the sexual exploitation of children. Unfortunately, the Ministry of Tourism in its Tourism Working Group Report makes no mention of issues related to exploitation of children in the context of tourism development.

The National Human Rights Commission (NHRC) along with National Commission for Women (NCW) and The Ministry of Women and Child Development (MWCD) have also come up with guidelines<sup>16</sup> in preventing and combating human trafficking with special focus on children and women. This plan of action also recognized that tourism is a cause for trafficking. In 2007, the National Commission for Protection of Child Rights was set up in India to enquire into complaints and take suo motu cognisance of matters relating to deprivation of child rights, non-implementation of laws providing for protection and development of children and non-compliance of policy decisions, guidelines or instructions aimed at their welfare.

## **Part B: EQUATIONS Call**

EQUATIONS calls for responsibility in tourism and holds Governments, tourism promoters and the industry accountable for ensuring that tourism is just, non-exploitative and equitable

We call upon various stakeholders to take urgent steps to ensure protection of children in the context of tourism

### The Government of India

- Sexual abuse and exploitation of children needs to be considered a very serious crime and to impose very severe and deterrent punishment to the offenders, Indian and foreign. We call upon the Government to come up with a comprehensive Act which deals with child abuse and exploitation taking into account the child abuse in the context of tourism. The Government also needs to come up extradition laws to ensure that perpetrators of crimes who are foreigners are brought to book and to ensure that no foreign escapes punishment by leaving this country
- To agree on a uniform age to define a child in legal terms as various acts in India concerning children have different age limit allowing for many loopholes. We recommend that "a child means every human being below

the age of 18 years as mentioned in the Article 1 of The United Nations Convention on the Rights of the Child (UNCRC) which is ratified by India.

- Instead of simply banning child labour in the hospitality sector, it is critical that the causes for child labour (mostly linked to poverty) are addressed and the implementation issues such as the rehabilitation of child labourers after their removal from labour, the long-term tracking of these children to prevent their return to labour must also be taken into consideration and addressed simultaneously, for the issue of child labour to be resolved in a meaningful and sustainable manner.
- The National and State Tourism Policies need to acknowledge the role of tourism in exploiting children, clearly denounce sexual exploitation of children and commit that tourism will be child exploitation free zones
- The Ministry of Tourism in particular needs to be more accountable and evolve a concrete plan of action to counter child abuse in tourism. It needs to put monitoring mechanisms in place with the active participation of stake holders such as industry, tour operators, travel agents, hotels local authorities, the judiciary , the police, child rights and other civil society organisations and communities
- Sensitisation and training of authorities who deal with children is particularly important

#### The Tourism, Travel and Hospitality Industry

We call upon the tourism industry, tour operators, travel agencies, hotels to come up with a Code of conduct related to the protection of children from all forms of exploitation in tourism. They must put in place Reporting and Monitoring Mechanisms and must promote socially responsible tourism. Some protective clauses could be:

- All establishments which provide lodging, accommodation, temporary housing, rooms, place to stay, quarters, lodge or any similar facility should ensure that children are safe and not at risk of child abuse within their premises including all adjoining beaches, parks etc.
- They must make sure that no child is allowed to enter any such establishment unless the child is registered as staying in the room with family, relatives or person related by blood.
- They must ensure that no child has access to any internet facilities which are not fitted with filters and to any objectionable materials including through film, or videos, disc-players, cable or any other medium provided by that establishment.
- The owner and the manager of the hotel or establishment should be held solely responsible for any contraventions

In particular we urge the industry to take into account the fact that much of the child abuse is visible (though not restricted to the small and medium and informal sectors. Travel and Tourism linked bodies and associations must reach out to these sectors and not shrug off the problem as being “not in my backyard”.

#### The UNWTO

We call upon the UNWTO to demonstrate its commitment to address the issue by

- Actively working with the tourism industry to develop and implement codes of conduct which will protect children from exploitation in the context of tourism.
- To work with various formations of industries, with small and medium scale enterprises, as it is in the informal and the small and medium sectors where a lot of exploitation of children happens.
- To hold detailed consultations with multiple stakeholders that aims at understanding, interventions and solutions to the problem. This could be done through :
  - o To encourage and support (including through financial support) organizations in the civil society space to participate in the Task Force meetings (as this is usually beyond their reach) so that their experiences and recommendation find a place in the body of experience that the UNWTO considers to make its policies and plans.
  - o To encourage and support research studies and action research to understand the realities on the ground. This will indicate UNWTO’s commitment to the issue much more strongly than only organising brief Task Force meetings. Further more, these meetings seem to address the issue at a very general level and it is not clear at all what have been the clear impacts and outcomes of these series of meetings.
  - o The task force works with an expanded agenda of engaging on sexual exploitation, trafficking and labour. It is critical that in expanding the mandate it does not result in generalised instruments and processes to address each of these issues as this would be self –defeating. The task force may need to appoint specific committees or groups to come up with measures and analysis that address the context and needs of each of these areas with clear focus. We are quite concerned that in the use of terms such as decent opportunities and empowerment of minors in the context of child labour in tourism. We wish to remind the UNWTO of its own commitment in its Global Code of ethics Article 2 which in turn draws in its preamble on universally recognised conventions such as, “Conventions on the Rights of the Child”,

"Stockholm Declaration against the Commercial Sexual Exploitation of Children" and the "Convention and recommendation adopted by the International Labour Organization in the areas of collective conventions, prohibition of forced and child labour". We therefore wonder if the UNWTO has changed its position in relation to the issue of prohibition of child labour.

- The UNWTO website has very little material on the issue of exploitation of children in tourism. To our knowledge there have been no World Tourism Day themes or any conference called by the UNWTO on the issue of exploitation of children. We find it surprising that such a serious violation of the right of the most vulnerable should receive so little attention of the UNWTO.
- The Global Code of Ethics for Tourism must be expanded on this issue to detail the problems of exploitation of children and to clearly condemn tourism's complicity and role in child trafficking, child labour and sexual exploitation of children.

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## End Notes

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1 U.S. Department of States, Bureau of Democracy, Human Rights and Labour "Country Reports on Human Rights Practices, South Asia, India" 2006

2 Global Monitoring Report on the Status of action against commercial sexual exploitation of children in India, 2006 by End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT International)

3 Section 373 of IPC states -Buying Minors for purpose of prostitution, etc. – Whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing it to be likely that such person will at any age be employed or used for any purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

4 Section 377 of IPC states Unnatural Offences- Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

5 Sandesh Prabhudesai, "Another paedophile goes scot free". The Pioneer, Goa, 14th April 2002

6 Child Sexual Abuse in Goa: A Case Analysis by Nishtha Desai, Emidio Pinho, Audrey Pinto, July 2006

7 Study on Coastal Sex Tourism and Gender- study done by EQUATIONS For National Commission of Women 2002

8 Trafficking of Women and Children in India, study by National Human Rights Commission, 2003

9 EQUATIONS is a member of End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purpose (ECPAT) International

10 Situational Analysis of Child Sex Tourism in India (Goa and Kerala) by EQUATIONS research done for ECPAT, December 2003

11 10th November 2006, The Outlook: HIV @rs100- Off Puri's holy precinct, u nholy sex tourism has made Pentakota, a small fishing hamlet, paradise for paedophiles.

12 Situational Analysis report on Prostitution of Boys in India (Hyderabad), June 2006, ECPAT International

13 Paedophile tourism may figure in child abuse Bill, Himanshi Dhawan, [ 14 Mar, 2007 0014hrs ISTTIMES NEWS NETWORK ] (The source:

[http://timesofindia.indiatimes.com/NEWS/India/Paedophile\\_tourism\\_may\\_figure\\_in\\_child\\_abuse\\_Bill/articleshow/1759585.cms](http://timesofindia.indiatimes.com/NEWS/India/Paedophile_tourism_may_figure_in_child_abuse_Bill/articleshow/1759585.cms))

14 Department of Information Technology. Ministry of Communications & Information Technology. Government of India, New Delhi. Report of the Expert Committee, Proposed Amendments to Information Technology Act 2000, proposed section 67(2).

15 Report on the working group on development of children for the Eleventh Five Year Plan (2007-2012), by Ministry of Women and Child Development, Government of India

16 Integrated Plan of Action on Trafficking in Human Beings with special focus on children and women, by Ministry of Women and Child Development, Government of India, 2007